

AMENDED IN SENATE AUGUST 23, 2001

AMENDED IN SENATE JUNE 21, 2001

AMENDED IN ASSEMBLY APRIL 3, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 708

Introduced by Assembly Member Bill Campbell

February 22, 2001

An act to amend Sections 113716, 113830, 113925, 113996, 114090, 114190, 114260, 114265, 114275, 114332.3, and 114332.5 of, and to add Section 113998 to, the Health and Safety Code, relating to retail food facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 708, as amended, Bill Campbell. Retail food facilities: internal food temperatures.

Existing law, the California Uniform Retail Food Facilities Law, provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Health Services. Violation of any of these provisions is a crime. Under existing law, pork shall be heated to an internal temperature of 68 degrees C (155 degrees F), and foods containing certain raw or incompletely cooked animal ~~tissues~~ *tissue* that ~~are~~ *is* heated in a microwave, shall be heated at a minimum internal temperature of at least 14 degrees C (25 degrees F) *above specified minimum cooking temperatures*.

This bill would instead require pork to be heated to an internal temperature of 63 degrees C (145 degrees F), and would require microwaved foods containing raw or incompletely cooked animal

~~tissues~~ *tissue* to be heated to an internal temperature of 74 degrees C (165 degrees F).

This bill would require that when any potentially hazardous food, as defined, that has been prepared, cooked, cooled, and is reheated by a food facility, for hot holding, it shall be reheated to a minimum internal temperature of 74 degrees C (165 degrees F).

The bill would also require that when any potentially hazardous food, as defined, is taken from a commercially processed, hermetically sealed container or other intact package from a regulated food processing plant and is thereafter heated by a food facility for hot holding, the minimum internal temperature ~~would~~ *must* be at least 60 degrees C (140 degrees F).

Existing law requires each food facility, as defined, to have an owner or employee who has successfully passed an approved and accredited food safety examination, on or before, January 1, 2000.

This bill would exclude from the definition of a food facility for these purposes ~~those any food facilities~~ *facility* that ~~only handle~~ *handles only* unpackaged, nonpotentially hazardous foods.

Existing law defines an “open-air barbecue facility” for purposes of retail food sales, and exempts these facilities from existing enclosure requirements, in accordance with specified criteria.

This bill would recast and revise the definition of an open-air barbecue facility, and the related enclosure requirements.

Under existing law, enforcement officers are charged with the enforcement of the California Uniform Retail Food Facilities Law.

This bill would revise the provisions relating to the duties of enforcement officers, and would make it a violation of the retail food facilities provisions for any person to refuse to permit specified activities relating to the inspection of premises or records, or the taking of evidence.

Existing law requires all utensils and equipment to be scraped, cleaned, or sanitized as circumstances required.

This bill would revise the existing cleaning and sanitization requirements for equipment food-contact surfaces and utensils.

Under existing law relating to mobile food facilities, a tamale is considered prepackaged if it is distributed to customers in its original, labeled, inedible wrapper.

This bill would delete the requirement that the tamale wrapper be labeled, in order for it to be designated prepackaged.



This bill would also recast and revise the requirements relating to the maintenance and storage of potable and wastewater tanks for mobile food facilities.

This bill would exempt mobile food facilities approved prior to January 1, 2002, that are limited to the portioning and dispensing of nonprepackaged, nonpotentially hazardous food, from specified ~~handwashing~~ *hand* and utensil washing sink requirements, under certain circumstances.

By changing existing requirements and creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 113716 of the Health and Safety Code
- 2 is amended to read:
- 3 113716. (a) (1) On or before January 1, 2000, each food
- 4 facility shall have an owner or employee who has successfully
- 5 passed an approved and accredited food safety certification
- 6 examination. For purposes of this section, multiple contiguous
- 7 food facilities permitted within the same site and under the same
- 8 management, ownership, or control shall be deemed to be one food
- 9 facility, notwithstanding the fact that the food facilities may
- 10 operate under separate permits.
- 11 (2) The Legislature finds and declares that the certification
- 12 required by this section may impose hardship on the owners and
- 13 operators of smaller food facilities and, therefore, to the extent that
- 14 a person who is seeking certification pursuant to this section
- 15 requires training in order to successfully pass an approved and
- 16 accredited food safety certification examination, this training shall
- 17 be designed and provided in as flexible a manner as possible. To
- 18 that end, the Legislature further finds and declares that this training



1 may include, but need not be limited to, classroom training, home
2 study programs, and computer-assisted training.

3 (b) On and after January 1, 2000, a food facility that
4 commences operation, changes ownership, or no longer has a
5 certified owner or employee pursuant to this section shall have 60
6 days to comply with subdivision (a).

7 (c) There shall be at least one certified owner or employee at
8 each food facility. No certified person at a food facility for
9 purposes of subdivision (a) may serve at any other food facility as
10 the person required to be certified pursuant to this section. The
11 certified owner or employee need not be present at the food facility
12 during all hours of operation.

13 (d) The responsibilities of a certified owner or employee at a
14 food facility shall include the safety of food preparation and
15 service, including ensuring that all employees who handle, or have
16 responsibility for handling, unpackaged foods of any kind; have
17 sufficient knowledge to ensure the safe preparation or service of
18 the food, or both. The nature and extent of the knowledge that each
19 employee is required to have may be tailored, as appropriate, to the
20 employee's duties related to food safety issues.

21 (e) The food safety certificate issued pursuant to this section
22 shall be retained on file at the food facility at all times, and shall
23 be made available for inspection by the health enforcement officer.

24 (f) The issuance date for each original certificate issued
25 pursuant to this section shall be the date when the individual
26 successfully completes the examination. A certificate shall expire
27 three years from the date of original issuance. Any replacement or
28 duplicate certificate shall have as its expiration date the same
29 expiration date that was on the original certificate.

30 (g) Certified individuals shall be recertified every three years
31 by passing an approved and accredited food safety certification
32 examination.

33 (h) On or before March 1, 1999, enforcement agencies shall
34 notify all permitted food facilities subject to this section of the new
35 legal obligation imposed by this section and provide to them the
36 names and contact addresses for all approved and accredited food
37 safety certification examinations.

38 (i) The food safety certification examination shall include, but
39 need not be limited to, the following elements of knowledge:



(1) Foodborne illness, including terms associated with foodborne illness, microorganisms, hepatitis A, and toxins that can contaminate food and the illness that can be associated with contamination, definition and recognition of potentially hazardous foods, chemical, biological, and physical contamination of food, and the illnesses that can be associated with food contamination, and major contributing factors for foodborne illness.

(2) The relationship between time and temperature with respect to foodborne illness, including the relationship between time and temperature and microorganisms during the various food handling, preparation, and serving states, and the type, calibration, and use of thermometers in monitoring food temperatures.

(3) The relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food worker health to foodborne illness, and the recognition of how policies, procedures, and management contribute to improved food safety practices.

(4) Methods of preventing food contamination in all stages of food handling, including terms associated with contamination and potential hazards prior to, during, and after delivery.

(5) Procedures for cleaning and sanitizing equipment and utensils.

(6) Problems and potential solutions associated with facility and equipment design, layout, and construction.

(7) Problems and potential solutions associated with temperature control, preventing cross-contamination, housekeeping, and maintenance.

(j) (1) Except as otherwise provided in paragraph (2), ~~the following food safety certification examinations shall be deemed tests, utilizing forms recognized by the Conference on Food Protection, of the following food safety certification examination providers shall be deemed~~ to be approved and accredited for purposes of this section:

~~(A) The ServSafe Serving Safe Food Certification Examination.~~

~~(B) The Chauncey Group International Food Protection Certification Examination.~~

~~(C) The National Assessment Institute's Certified Professional Food Manager Examination.~~

1 ~~(D) Professional Testing, Inc.~~

2 ~~(E) Dietary Managers' Association.~~

3 (A) *The National Restaurant Association Educational*
4 *Foundation's ServSafe Food Protection Manager Certification*
5 *Examination.*

6 (B) *Experior Assessments LLC.*

7 (C) *The National Registry of Food Safety Professionals.*

8 (D) *The certifying board of the Dietary Managers'*
9 *Association.*

10 (2) (A) On or before January 1, 2000, the department, in
11 consultation with the California Conference of Directors of
12 Environmental Health (CCDEH), the Conference for Food
13 Protection, representatives of the retail food industry, and other
14 interested parties, shall develop regulations to approve and
15 accredit additional equivalent food safety certification
16 examinations and to disapprove and eliminate accreditation of
17 food safety certification examinations.

18 (B) Commencing January 1, 1999, at least one of the accredited
19 statewide food safety certification examinations shall cost no more
20 than sixty dollars (\$60), including the certificate. However,
21 commencing January 1, 2000, the department may adjust the cost
22 of food safety certification examinations to reflect actual expenses
23 incurred in producing and administering the food safety
24 certification examinations required under this section. If a food
25 safety certification examination is not available at the price
26 established by the department, the certification and recertification
27 requirements relative to food safety certification examinations
28 imposed by this section shall not apply.

29 (k) (1) For purposes of this section, a food facility includes
30 only the following:

31 (A) A food establishment, as defined in Section 113780, at
32 which unpackaged foods are prepared, handled, or served.

33 (B) A mobile food preparation unit, as defined in Section
34 113815.

35 (C) A stationary mobile food preparation unit, as defined in
36 Section 113890.

37 (D) A commissary, as defined in Section 113750.

38 (2) (A) Notwithstanding paragraph (1), this section shall not
39 apply to the premises of a licensed winegrower or brandy
40 manufacturer utilized for winetastings conducted pursuant to

1 Section 23356.1 of the Business and Professions Code of wine or
2 brandy produced or bottled by, or produced and packaged for, that
3 licensee.

4 (B) Notwithstanding paragraph (1), this section shall not apply
5 to those food facilities that ~~only handle~~ *handle only* unpackaged,
6 nonpotentially hazardous foods. Those facilities may choose to
7 meet the requirements through full certification, or may
8 adequately demonstrate to the enforcement officer the knowledge
9 of the employees of the food facility of food safety principles as
10 they relate to the specific food operation.

11 (3) Notwithstanding paragraph (1), this section shall not apply
12 to a food facility operated by a school district, county office of
13 education, or community college district if the district or office
14 elects to be regulated by the food safety program of the city,
15 county, or city and county in which the school district, county
16 office of education, or community college district is located.

17 (I) For purposes of this section, the following definitions apply:

18 (1) "Food safety program" means any city, county, or city and
19 county program that requires, at a minimum, either of the
20 following:

21 (A) The training of one or more individuals, whether
22 denominated as "owners," "managers," "handlers," or
23 otherwise, relating in any manner to food safety issues.

24 (B) Individuals to pass a food safety certification examination.

25 (2) "Food handler program" means any city, county, or city
26 and county program that requires that all or a substantial portion
27 of the employees of a food facility who are involved in the
28 preparation, storage, service, or handling of food ~~products~~,
29 *products* to engage in food safety training or pass a food safety
30 certification examination, or both.

31 (m) (1) Any provisions of a food safety program in effect prior
32 to January 1, 1999, that require training or a certification
33 examination, or both, shall be deemed to satisfy the requirements
34 of this chapter until January 1, 2001, at which time these
35 provisions shall fully conform with the requirements of this
36 chapter. However, all provisions of a food safety program in effect
37 prior to January 1, 1999, that do not pertain to training or a
38 certification program shall conform with the requirements of this
39 chapter by January 1, 2000.

(2) On and after January 1, 1999, a food safety program that was not in effect prior to that date may not be enacted, adopted, implemented, or enforced, unless the program fully conforms with the requirements of this chapter.

(n) No city, county, or city and county may enact, adopt, implement, or enforce any requirement that any food facility or any person certified pursuant to this section do any of the following:

(1) Obtain any food safety certificate or other document in addition to the certificate required by this section.

(2) Post, place, maintain, or keep the certificate required by this section other than as specified in subdivision (e).

(3) Pay any fee or other sum as a condition for having a certificate verified, validated, or otherwise processed by the city, county, or city and county.

(o) Certification conferred pursuant to this chapter shall be recognized throughout the state. Nothing in this chapter shall be construed to prohibit any local enforcement agency from implementing or enforcing a food handler program, as defined in paragraph (2) of subdivision (l) that took effect prior to January 1, 1998, but only in the form in which the program existed prior to January 1, 1998.

(p) Notwithstanding Section 113935, a violation of this section shall not constitute a misdemeanor, but shall constitute grounds for permit suspension or revocation, in accordance with Article 5 (commencing with Section 113950).

SEC. 2. Section 113830 of the Health and Safety Code is amended to read:

113830. "Open-air barbecue facility" means an unenclosed facility for barbecuing food, where the food is prepared out of doors by cooking directly over hot coals, heated lava, hot stones, gas flame, or other method approved by the state department, on equipment suitably designed and maintained for use out of doors, that is operated by a food establishment, temporary food facility, or stationary mobile food preparation unit, that is operated in full compliance with Article 9 (commencing with Section 114185).

SEC. 3. Section 113925 of the Health and Safety Code is amended to read:

1 113925. (a) Enforcement officers are charged with the
2 enforcement of this chapter and all regulations adopted pursuant
3 to it.

4 (b) ~~(1)~~ For purposes of enforcement of this chapter, any
5 authorized enforcement officer may, *during the facility's hours of*
6 *operation and other reasonable times*, enter, inspect, issue
7 citations *to*, and secure any sample, photographs, or other evidence
8 from, any food facility, or any facility suspected of being a food
9 facility, for the purpose of enforcing this chapter. *If a food facility*
10 *is operating under an HACCP plan, as defined in Section 113797*
11 *and adopted pursuant to Section 114055 or 114056, the*
12 *enforcement officer may, for the purpose of determining*
13 *compliance with the plan, secure as evidence any documents, or*
14 *copies of documents, relating to the facility's adherence to the*
15 *HACCP plan.*

16 ~~(2) If a food facility is operating under a HACCP plan, as~~
17 ~~defined in Section 113797 and adopted pursuant to Section 114055~~
18 ~~or 114056, then the enforcement officer may inspect and secure as~~
19 ~~evidence any documents, or copies thereof, bearing upon the~~
20 ~~facility's adherence to the HACCP plan for the purpose of~~
21 ~~determining compliance with the plan.~~

22 (c) It is a violation of this chapter for any person to refuse to
23 permit entry or inspection, the taking of samples or other evidence,
24 or access to copy any record as authorized by this chapter, or to
25 conceal any samples or evidence, or withhold evidence concerning
26 them.

27 (d) ~~Any~~ A written report of the inspection shall be made and a
28 copy shall be supplied or mailed to the owner, manager, or operator
29 of the food facility.

30 SEC. 4. Section 113996 of the Health and Safety Code is
31 amended to read:

32 113996. (a) All ready-to-eat foods prepared at the food
33 facility from raw or incompletely cooked animal ~~tissues~~ *tissue*
34 shall be thoroughly cooked prior to serving. For purposes of this
35 subdivision, food shall be deemed to be thoroughly cooked if it
36 conforms to the following requirements, except as specified in
37 subdivision (b):

38 (1) Comminuted meat or any food containing comminuted
39 meat shall be heated to a minimum internal temperature of 69
40 degrees Celsius (157 degrees Fahrenheit), or an optional internal

1 temperature of 68 degrees Celsius (155 degrees Fahrenheit) for 15
2 seconds.

3 (2) Eggs and foods containing raw eggs shall be heated to a
4 minimum internal temperature of 63 degrees Celsius (145 degrees
5 Fahrenheit).

6 (3) Pork shall be heated to a minimum internal temperature of
7 63 degrees Celsius (145 degrees Fahrenheit) *for 15 seconds*.

8 (4) Poultry, comminuted poultry, stuffed fish, stuffed meat,
9 stuffed poultry, and any food stuffed with fish, meat, or poultry
10 shall be heated to a minimum internal temperature of 74 degrees
11 Celsius (165 degrees Fahrenheit).

12 (b) When foods containing raw or incompletely cooked animal
13 ~~tissues~~ *tissue* specified in this section are prepared in a microwave
14 oven, they shall be heated at a minimum internal temperature of
15 at least 74 degrees Celsius (165 degrees Fahrenheit) *in all parts of*
16 *the food*. During microwaving, the food shall be completely
17 enclosed in a container *to retain surface moisture*, and periodically
18 stirred or rotated to assure even heat distribution. Upon the
19 completion of microwaving, the enclosed food shall be left
20 standing for a minimum of two minutes to assure temperature
21 equilibrium. This subdivision does not apply to the heating of
22 ready-to-eat cooked foods or the defrosting of food items.

23 (c) A ready-to-eat salad dressing or sauce containing a raw or
24 less-than-thoroughly cooked egg as an ingredient, and other
25 ready-to-eat foods made from or containing eggs, comminuted
26 meat, or single pieces of meat (including beef, veal, lamb, pork,
27 poultry, fish, and seafood) that are raw or have not been thoroughly
28 cooked as provided in subdivision (a) may be served if either of the
29 following requirements are met:

30 (1) The consumer specifically orders that the food be
31 individually prepared less than thoroughly cooked.

32 (2) The food facility notifies the consumer, orally or in writing,
33 at the time of ordering, that the food is raw or less than thoroughly
34 cooked.

35 (d) The department shall authorize alternative time and
36 temperature minimum heating requirements to thoroughly cook
37 the foods identified in this section when the food facility or person
38 demonstrates to the department that the alternative heating
39 requirements provide an equivalent level of food safety.

(e) For purposes of this section, “meat” means the tissue of animals used as food, including beef, veal, lamb, pork, and other edible animals, except eggs, fish, and poultry, that is offered for human consumption.

(f) It is the intent of the Legislature that the requirements of this section be uniformly enforced. The department shall train and provide guidance to local health departments to promote uniform enforcement of the requirements specified in this section.

SEC. 5. Section 113998 is added to the Health and Safety Code, to read:

113998. (a) Whenever any potentially hazardous food, as defined in Section 113845, that has been prepared, cooked, and cooled by a food facility is thereafter reheated by that food facility; for hot holding, it shall be reheated to a minimum internal temperature of 74 degrees Celsius (165 degrees Fahrenheit).

~~(b) Whenever any potentially hazardous ready-to-eat food is taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority in the jurisdiction in which the plant is located, is thereafter heated by a food facility, that food shall be heated to a temperature of at least 60 degrees Celsius (140 degrees Fahrenheit) for hot holding.~~

(b) Any potentially hazardous ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 60 degrees Celsius (140 degrees Fahrenheit) for hot holding. A minimum temperature shall not be required if the food described in this subdivision is prepared for immediate service.

SEC. 6. Section 114090 of the Health and Safety Code is amended to read:

114090. (a) All utensils and equipment shall be scraped, cleaned, or sanitized as circumstances require.

(b) All food establishments in which food is prepared or in which multiservice kitchen utensils are used shall have a sink with at least three compartments with two integral metal drainboards. ~~Additional drainage space may be provided that is not necessarily attached to the sink.~~ *Additional drainage space that is not necessarily attached to the sink may be provided.* The sink

1 compartments and drainage facilities shall be large enough to
2 accommodate the largest utensil or piece of equipment to be
3 cleaned therein. A one-compartment or two-compartment sink
4 that is in use on January 1, 1996, may be continued in use until
5 replaced. The enforcement officer may approve the continued use
6 of a one-compartment or two-compartment sink even upon
7 replacement if the installation of a three-compartment sink would
8 not be readily achievable and where other approved sanitation
9 methods are used.

10 (c) All food establishments in which multiservice consumer
11 utensils are used shall clean the utensils in one of the following
12 ways:

13 (1) Handwashing of utensils using a three-compartment metal
14 sink with dual integral metal drainboards where the utensils are
15 first washed by hot water and a cleanser until they are clean, then
16 rinsed in clear, hot water before being immersed in a final warm
17 solution meeting the requirements of Section 114060.

18 (2) Machine washing of utensils in machines using a hot water
19 or chemical sanitizing rinse shall meet or be equivalent to
20 sanitation standards approved pursuant to Section 114065 and
21 shall be installed and operated in accordance with those standards.
22 The machines shall be of a type, and shall be installed and
23 operated, as approved by the department. The velocity, quantity,
24 and distribution of the wash water, type and concentration of
25 detergent used therein, and the time the utensils are exposed to the
26 water, shall be sufficient to clean the utensils.

27 (3) A two-compartment metal sink, having metal drainboards,
28 equipped for hot water sanitization, that is in use on January 1,
29 1985, may be continued in use until replaced.

30 (4) Other methods may be used after approval by the
31 department.

32 (d) Hot and cold water under pressure shall be provided
33 through a mixing valve to each sink compartment in all food
34 establishments constructed on or after January 1, 1985.

35 (e) All utensil washing equipment, except undercounter dish
36 machines, shall be provided with two integral metal drainboards
37 of adequate size and construction. One drainboard shall be
38 attached at the point of entry for soiled items and one shall be
39 attached at the point of exit for cleaned and sanitized items. Where
40 an undercounter dish machine is used, there shall be two metal

1 drainboards, one for soiled utensils and one for clean utensils,
2 located adjacent to the machine. The drainboards shall be sloped
3 and drained to an approved waste receptor. This requirement may
4 be satisfied by using the drainboards appurtenant to sinks as
5 required in subdivision (b) and paragraph (1) of subdivision (c),
6 if the facilities are located adjacent to the machine.

7 (f) The handling of cleaned and soiled utensils, equipment, and
8 kitchenware shall be undertaken in a manner that will preclude
9 possible contamination of cleaned items with soiled items.

10 (g) All utensils, display cases, windows, counters, shelves,
11 tables, refrigeration units, sinks, dishwashing machines, and other
12 equipment or utensils used in the preparation, sale, service, and
13 display of food shall be made of nontoxic, noncorrosive materials,
14 shall be constructed, installed, and maintained to be easily cleaned,
15 and shall be kept clean and in good repair.

16 (h) Utensils and equipment shall be handled and stored so as to
17 be protected from contamination. Single-service utensils shall be
18 obtained only in sanitary containers or approved sanitary
19 dispensers, stored in a clean, dry place until used, handled in a
20 sanitary manner, and used once only.

21 (i) Equipment food-contact surfaces and utensils shall be
22 cleaned and sanitized as follows:

23 (1) Each time there is a change in processing between types of
24 animal products except when products, are handled in the
25 following order: any cooked ready-to-eat products first; raw beef
26 and lamb products second; raw fish products third; and raw pork
27 or poultry products last.

28 (2) Each time there is a change from working with raw foods
29 of animal origin to working with ready-to-eat foods.

30 (3) Between uses with raw fruits or vegetables and with
31 potentially hazardous food.

32 (4) Before each use of a food ~~temperature-measuring~~
33 *temperature-measuring* device.

34 (5) At any time during the food handling operation when
35 contamination may have occurred.

36 (j) (1) Except as provided in paragraphs (2) and (3) of this
37 subdivision, if used with potentially hazardous food, equipment
38 food-contact surfaces and utensils shall be cleaned and sanitized
39 throughout the day, at least every four hours.

(2) Equipment food-contact surfaces and utensils may be cleaned and sanitized less frequently than every four hours if the utensils and equipment are used to prepare food in a refrigerated room, at or below 13 degrees Celsius (55 degrees Fahrenheit), and the utensils and equipment are cleaned and sanitized at least every 24 hours.

(3) Equipment food-contact surfaces and utensils may be cleaned and sanitized less frequently than every four hours if the enforcement agency approves the cleaning schedule utilized based on a consideration of the following factors:

(A) Characteristics of the equipment and its use.

(B) The type of food involved.

(C) The amount of food residue accumulation.

(D) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive growth of infectious or toxigenic microorganisms that may cause food infections or food intoxications.

(k) Nonfood contact surfaces of equipment shall be cleaned at a frequency necessary to prevent accumulation of residue.

SEC. 7. Section 114190 of the Health and Safety Code is amended to read:

114190. Notwithstanding the provisions of this chapter, neither the state department nor any city, county, or city and county shall require the enclosure of an open-air barbecue facility if the appropriate enforcement officer determines that the barbecue facility meets all of the following requirements:

(a) (1) The barbecue facility is operated on the same premises as, in reasonable proximity to, and in conjunction with, a food establishment, temporary food facility, or stationary mobile food preparation unit.

(2) For purposes of this chapter, the permitted food establishment, temporary food facility, or stationary mobile food preparation unit shall be deemed to be the operator of the barbecue facility, and shall be responsible for ensuring that it is operated in full compliance with this chapter.

(b) All food waste and rubbish containing food waste is handled in accordance with the requirements of Section 114035.

(c) The facility is operated in compliance with Articles 6 (commencing with Section 113975) and 7 (commencing with

1 Section 113990), except for Sections 114030, 114045, and
2 114060.

3 (d) The multiservice utensils and equipment used in
4 conjunction with the open-air barbecue facility are made of
5 nontoxic materials, are constructed and maintained in a manner so
6 they can be easily cleaned, and are kept clean and in good repair.

7 (e) Food and beverages served out of doors are dispensed from
8 units approved by the enforcement officer. No other food may be
9 prepared or stored in the out of doors, except for food cooked on
10 the open-air barbecue unit.

11 (f) (1) Except as otherwise provided in paragraph (2), no live
12 animals, birds, or fowl shall be kept or allowed in an area within
13 20 feet of any area where food or beverage is prepared, stored,
14 kept, or served.

15 (2) Paragraph (1) does not prohibit the presence, in any area
16 where food is served to the public, guests, or patrons, of a guide
17 dog, signal dog, or service dog, as defined by Section 54.1 of the
18 Civil Code, accompanied by a totally or partially blind person,
19 deaf person, person whose hearing is impaired, or handicapped
20 person, or dogs accompanied by persons licensed to train guide
21 dogs for the blind pursuant to Chapter 9.5 (commencing with
22 Section 7200) of Division 3 of the Business and Professions Code.

23 (3) Paragraph (1) does not apply to dogs under the control of
24 uniformed law enforcement officers or of uniformed employees of
25 private patrol operators and operators of a private patrol service
26 who are licensed pursuant to Chapter 11.5 (commencing with
27 Section 7580) of Division 3 of the Business and Professions Code,
28 while those employees are acting within the course and scope of
29 their employment as private patrol persons.

30 (4) Those persons and operators described in paragraphs (2)
31 and (3) are liable for any damage done to the premises or facilities
32 by the dog.

33 (g) If the barbecue facility is a permanent structure, it is
34 equipped with an impervious and easily cleaned floor surface that
35 extends a minimum of five feet from the open-air barbecue facility
36 on all open sides.

37 (h) The barbecue facility is located in an area reasonably
38 protected from dust, as determined by the enforcement officer.

39 (i) The barbecue facility is not operated in, or out of, any motor
40 vehicle or in any area or location that may constitute a fire hazard,

1 as determined by the enforcement officer. For the purposes of this
2 section, a motor vehicle does not include a stationary mobile food
3 preparation unit, as defined in Section 113890.

4 (j) Sanitary facilities, including, but not limited to, toilet
5 facilities and handwashing facilities shall be available for use
6 within 200 feet of the barbecue facility and shall comply with all
7 provisions of this chapter. Sanitary facilities that do not meet the
8 requirements of this chapter shall not be located closer to the
9 barbecue facility than the sanitary facilities required to be
10 provided by this section.

11 SEC. 8. Section 114260 of the Health and Safety Code is
12 amended to read:

13 114260. (a) Mobile food facilities that are limited to the
14 handling of prepackaged nonpotentially hazardous food and
15 produce shall comply with subdivisions (a) to (i), inclusive, of
16 Section 114265.

17 (b) Mobile food facilities that handle prepackaged potentially
18 hazardous food, whole fish and whole aquatic invertebrates, or the
19 bulk dispensing of nonpotentially hazardous beverages shall
20 comply with subdivisions (a) to (m), inclusive, of Section 114265.
21 For purposes of this section, tamales shall be considered
22 prepackaged if dispensed to the customer in its original, inedible
23 wrapper.

24 (c) Mobile food facilities that handle any of the following foods
25 shall comply with subdivisions (a) to (t), inclusive, of Section
26 114265:

27 (1) Nonprepackaged nonpotentially hazardous food requiring
28 no preparation other than heating, baking, popping, blending,
29 assembly, portioning, or dispensing.

30 (2) Preparation of nonpotentially hazardous ingredients into a
31 nonpotentially hazardous food.

32 (3) Hot dogs, cappuccino and other coffee-based or
33 cocoa-based beverages that may contain cream, milk, or similar
34 dairy products, and frozen ice cream bars that meet the
35 requirements of subdivision (b) of Section 114270.

36 (d) Only those foods described in this section may be prepared
37 or dispensed on a mobile food facility.

38 (e) Cooking processes, including, but not limited to,
39 barbecuing, broiling, frying, and grilling are not permitted on a
40 mobile food facility.

1 SEC. 9. Section 114265 of the Health and Safety Code is
2 amended to read:

3 114265. (a) The name, address, and telephone number of the
4 owner, operator, permittee, business name, or commissary shall be
5 legible, clearly visible, and permanently indicated on at least two
6 sides of the exterior of the mobile food facility. The name shall be
7 in letters at least 8 centimeters (3 inches) high and shall have
8 strokes at least 1 centimeter ($\frac{3}{8}$ inch) wide, and shall be of a color
9 contrasting with the mobile food facility exterior. Letters and
10 numbers for address and telephone numbers shall not be less than
11 2.5 centimeters (one inch) high.

12 (b) Mobile food facility equipment, including, but not limited
13 to, the interior of cabinet units and compartments, shall be
14 designed so as to, and made of materials that, result in smooth,
15 readily accessible, and easily cleanable surfaces. Unfinished
16 wooden surfaces are prohibited. Construction joints shall be
17 tightly fitted and sealed so as to be easily cleanable. Equipment and
18 utensils shall be constructed of durable, nontoxic materials and
19 shall be easily cleanable.

20 (c) During operation, no food intended for retail shall be
21 conveyed, held, stored, displayed, or served from any place other
22 than a mobile food facility except for the restocking of product in
23 a manner approved by the enforcement agency.

24 (d) Notwithstanding subdivision (k), food products remaining
25 after each day's operation shall be stored only in an approved
26 commissary or other approved facility.

27 (e) During transportation, storage, and operation of a mobile
28 food facility, food, food-contact surfaces, and utensils shall be
29 protected from contamination. Single-service utensils shall be
30 individually wrapped or in sanitary containers or approved
31 sanitary dispensers, stored in a clean, dry place until used, handled
32 in a sanitary manner, and used only once. Food-contact surfaces
33 and utensils shall be cleaned and sanitized in accordance with
34 subdivisions (i), (j), and (k) of Section 114090.

35 (f) All food displayed, sold, or offered for sale from a mobile
36 food facility shall be obtained from an approved source.

37 (g) Food condiments shall be protected from contamination
38 and, where available for customer self-service, be prepackaged or
39 available only from approved dispensing devices.

1 (h) Mobile food facilities shall be operated within 60 meters
2 (200 feet) of approved and readily available toilet and hand
3 washing facilities or as otherwise approved by the enforcement
4 agency to ensure restroom facilities are available to facility
5 employees.

6 (i) All mobile food facilities shall operate out of a commissary
7 or other approved facility in accordance with Article 12.5
8 (commencing with Section 114300). Mobile food facilities shall
9 report to the commissary or other approved facility at least once
10 each operating day for cleaning and servicing operations. Mobile
11 food facilities shall be properly stored, cleaned, and serviced at, or
12 within, a commissary or other facility as approved by the
13 enforcement agency so as to provide protection from unsanitary
14 conditions.

15 (j) Potentially hazardous food shall be maintained at or below
16 5 degrees Celsius (41 degrees Fahrenheit) or at or above 60 degrees
17 Celsius (140 degrees Fahrenheit) at all times in accordance with
18 Section 113995.

19 (k) Potentially hazardous food held at or above 60 degrees
20 Celsius (140 degrees Fahrenheit) on a mobile food facility shall be
21 destroyed at the end of the operating day.

22 (l) (1) Potable and wastewater tanks may be constructed so as
23 to be removed from within the approved mobile food facility
24 compartments for refilling and dispensing purposes only. ~~Refilling~~
25 ~~and dispensing of tanks shall be conducted simultaneously. All~~
26 retail food operations shall cease during removal and replacement
27 of tanks.

28 (2) All wastewater from a mobile food facility shall be drained
29 to an approved wastewater receptor at the commissary or other
30 approved facility.

31 (3) Refilling of a potable water tank shall be conducted through
32 an approved and sanitary method.

33 (4) Storage of any prefilled potable water tank, or empty and
34 clean water tanks, or both, shall be maintained within the cart, or
35 in an approved manner that will protect against contamination.

36 (m) All new and replacement gas-fired appliances shall meet
37 applicable ANSI standards. All new and replacement electrical
38 appliances shall meet applicable Underwriters Laboratory
39 standards. However, for units subject to Part 2 (commencing with



Section 18000) of Division 13, these appliances shall comply with standards prescribed by Sections 18028, 18029.3, and 18029.5.

(n) Bulk beverage dispensers shall only be filled at the commissary or other facility approved by the enforcement agency unless a hand washing sink as described in paragraph (1) of subdivision (p) is provided.

(o) Where nonprepackaged food is handled for display or sale, the mobile food facility shall be equipped with a food compartment that completely encloses all food, food-contact surfaces, and the handling of ready-to-eat food. The opening to the food compartment shall be sized as appropriate to the food handling activity without compromising the intended protection from contamination, and shall be provided with tight-fitting doors that, when closed, protect interior surfaces from dust, debris, insects, and other vermin.

(p) Mobile food facilities, not under a valid public health permit as of January 1, 1997, on which nonprepackaged ready-to-eat food is sold ~~or offered for sale~~, *or offered for sale*, shall be constructed and equipped in compliance with all of the following:

(1) A minimum of a one-compartment metal sink, hand washing cleanser and single-service towels in approved dispensers shall be provided. The sink shall be furnished with hot running water that is at least 49 degrees Celsius (120 degrees Fahrenheit) and cold running water that is less than 38 degrees Celsius (101 degrees Fahrenheit) through a mixing-type faucet that permits both hands to be free for washing. The sink shall be large enough to accommodate the cleaning of the largest utensils washed. The sink, hand washing cleanser, and single-service towels shall be located as to be easily accessible and unobstructed for use by the operator in the working area. The minimum water heater capacity shall be one-half gallon.

(2) The potable water tank and delivery system shall be constructed of approved materials, provide protection from contamination, and shall be of a capacity commensurate with the level of food handling activity on the mobile food facility. The capacity of the system shall be sufficient to furnish enough hot and cold water for the following: steamtable, utensil washing and sanitizing, hand washing, and equipment cleaning. At least 18 liters (5 gallons) of water shall be provided exclusively for hand

1 washing. Any water needed for other purposes shall be in addition
2 to the 18 liters (5 gallons) for hand washing.

3 (3) (i) The wastewater tank or tanks shall have a minimum
4 capacity that is 50 percent greater than the potable water tank or
5 tanks supplying the hand and utensil washing sink. In no case shall
6 this wastewater capacity be less than 28 liters (7.5 gallons).

7 (ii) Mobile food facilities utilizing ice in the storage, display,
8 or service of food or beverages shall provide an additional
9 minimum wastewater holding tank capacity equal to one-third of
10 the volume of the ice cabinet to accommodate the drainage of ice
11 melt.

12 (iii) Mobile food facilities equipped with a tank supplying
13 product water for the preparation of a food or beverage shall
14 provide an additional wastewater tank capacity equal to at least 15
15 percent of this water supply.

16 (iv) Additional wastewater tank capacity may be required
17 where wastewater production or spillage is likely to occur.

18 (v) Any connection to a wastewater tank shall preclude the
19 possibility of contaminating any food, food-contact surface, or
20 utensil.

21 (4) A mobile food facility's potable water tank inlet shall be
22 provided with a connection of a size and type that will prevent its
23 use for any other service and shall be constructed so that backflow
24 and other contamination of the water supply is prevented. Hoses
25 used to fill potable water tanks shall be made of food grade
26 materials and handled in a sanitary manner.

27 (q) Mobile food facilities selling unpackaged frozen ice cream
28 bars or holding cream, milk, or similar dairy products pursuant to
29 Section 114270 shall be equipped with refrigeration units as
30 described in Section 113860.

31 (r) Operators of mobile food facilities handling
32 nonprepackaged food shall develop and follow written operational
33 procedures for food handling and the cleaning and sanitizing of
34 food-contact surfaces and utensils. The enforcement agency shall
35 review and approve the procedures prior to implementation and an
36 approved copy shall be kept on the mobile food facility during
37 periods of operation.

38 (s) All potentially hazardous food shall be prepackaged in an
39 approved food facility except as provided in Sections 114260 and
40 114270.

(t) Except to the extent that an alternative construction standard is explicitly prescribed by this section, construction standards for mobile food preparation units and stationary mobile food preparation units which are subject to Part 2 (commencing with Section 18000) of Division 13 shall be governed by the provisions of that part.

SEC. 10. Section 114275 of the Health and Safety Code is amended to read:

114275. (a) Mobile food facilities formerly approved as vehicles immediately preceding January 1, 2002, on which approved unpackaged food is sold or offered for sale that operate exclusively on premises wherein approved toilet, hand washing, and utensil washing facilities are readily available and within 60 meters (200 feet) shall be exempt from the requirements of subdivision (p) of Section 114265.

(b) Mobile food facilities as set forth in subdivision (a) that were in operation as of July 1, 1986, need not meet the requirements of this article relating to utensil washing facilities, if an approved supply of gloves or utensils, or both, is maintained on the mobile food facility that would preclude any hand contact with the food products being dispensed.

(c) Mobile food facilities approved prior to January 1, 2002, that are limited to the portioning and dispensing of nonprepackaged, nonpotentially hazardous food, are exempt from the ~~handwashing~~ hand and utensil washing sink requirements of this article, if there is an approved supply of gloves, utensils, or both, on the facility that precludes any hand contact with the food products being dispensed. This exemption shall not apply to the scooping of ice.

SEC. 11. Section 114332.3 of the Health and Safety Code is amended to read:

114332.3. (a) No potentially hazardous food or beverage stored or prepared in a private home may be offered for sale, sold, or given away from a nonprofit charitable temporary food facility. Potentially hazardous food shall be prepared in a food establishment or on the premises of a nonprofit charitable temporary food facility.

(b) All food and beverage shall be protected at all times from unnecessary handling and shall be stored, displayed, and served so as to be protected from contamination.

1 (c) Potentially hazardous food and beverage shall be
2 maintained at or below 7 degrees Celsius (45 degrees Fahrenheit)
3 or at or above 60 degrees Celsius (140 degrees Fahrenheit) at all
4 times.

5 (d) Ice used in beverages shall be protected from contamination
6 and shall be maintained separate from ice used for refrigeration
7 purposes.

8 (e) All food and food containers shall be stored off the floor on
9 shelving or pallets located within the facility.

10 (f) Smoking is prohibited in nonprofit charitable temporary
11 food facilities.

12 (g) (1) Except as provided in paragraph (2), live animals,
13 birds, or fowl shall not be kept or allowed in nonprofit charitable
14 temporary food facilities.

15 (2) Paragraph (1) does not prohibit the presence, in any room
16 where food is served to the public, guests, or patrons, of a guide
17 dog, signal dog, or service dog, as defined by Section 54.1 of the
18 Civil Code, accompanied by a totally or partially blind person,
19 deaf person, person whose hearing is impaired, or handicapped
20 person, or dogs accompanied by persons licensed to train guide
21 dogs for the blind pursuant to Chapter 9.5 (commencing with
22 Section 7200) of Division 3 of the Business and Professions Code.

23 (3) Paragraph (1) does not apply to dogs under the control of
24 uniformed law enforcement officers or of uniformed employees of
25 private patrol operators and operators of a private patrol service
26 who are licensed pursuant to Chapter 11.5 (commencing with
27 Section 7580) of Division 3 of the Business and Professions Code,
28 while these employees are acting within the course and scope of
29 their employment as private patrol persons.

30 (4) The persons and operators described in paragraphs (2) and
31 (3) are liable for any damage done to the premises or facilities by
32 the dog.

33 (5) The dogs described in paragraphs (2) and (3) shall be
34 excluded from food preparation and utensil wash areas.
35 Aquariums and aviaries shall be allowed if enclosed so as not to
36 create a public health problem.

37 (h) All garbage shall be disposed of in a sanitary manner.

38 (i) Employees preparing or handling food shall wear clean
39 clothing and shall keep their hands clean at all times.



1 SEC. 12. Section 114332.5 of the Health and Safety Code is
2 amended to read:

3 114332.5. Open-air barbecue facilities may be operated
4 adjacent to nonprofit charitable temporary food facilities, and
5 shall be subject to the requirements of Article 9 (commencing with
6 Section 114185).

7 SEC. 13. No reimbursement is required by this act pursuant
8 to Section 6 of Article XIII B of the California Constitution
9 because the only costs that may be incurred by a local agency or
10 school district will be incurred because this act creates a new crime
11 or infraction, eliminates a crime or infraction, or changes the
12 penalty for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition of a
14 crime within the meaning of Section 6 of Article XIII B of the
15 California Constitution.

